IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

WP(C).No. 34965 of 2007(K)

PETITIONERS:

1. **K.MANOJ, NOW WORKING AS VILLAGE OFFICER, MULAVUKAD VILLAGE, ERNAKULAM.**

2. **K.K.XAVIER, U.D.CLERK, DISTRICT LOTTERY OFFICE, ERNAKULAM NORTH, ERNAKULAM.**

BY ADV. SRI.BENOY THOMAS
SRI.PAULSON THOMAS

RESPONDENTS:

1. **STATE OF KERALA, REPRESENTED BY CHIEF SECRETARY, SECRETARIAT, THIRUVANANTHAPURAM.**

2. **THE KERALA NON GAZETTED OFFICERS ASSOCIATION, N.G.O.BHAVAN, BAKERY JUNCTION, OPP.R.B.I. PALAYAM, THIRUVANANTHAPURAM, REPRESENTED BY KOTTATHALA MOHANAN, GEETHANGALI, TC 3/2176(1), PATTOM PALACE PO, THIRUVANANTHAPURAM, NOW WORKING AS JUNIOR EMPLOYMENT OFFICER, DIRECTORATE EMPLOYMENT, THIRUVANANTHAPURAM, STYLED AS GENERAL SECRETARY.**

3. **THE KERALA NON GAZETTED OFFICERS ASSOCIATION, ERNAKULAM DISTRICT COMMITTEE, REPRESENTED BY ITS DISTRICT PRESIDENT, C.AJAYAKUMAR, AGED 46, S/O.K.V.CHINNAPPAN, SREEVALSOM, PALLIPPURAM P.O., CHERTHALA, NOW RESIDING IN QUARTERS NO.IIIA 12/68 NGO QUARTERS, THRIKKAKKARA P.O., ERNAKULAM.**

4. THE KERALA NON GAZETTED OFFICERS ASSOCIATION, HAVING PRINCIPAL PLACE OF ACTIVITIES AT NGO BHAVAN, BAKERY JUNCTION, OPP.R.B.I. PALAYAM, THIRUVANANTHAPURAM, REPRESENTED BY STATE VICE PRESIDENT K.V.MURALEEDHARAN, AGED 48, S/O.VELAYUDHAN, SAFALIAM, NEAR RAILWAY STATION, FCI ROAD, ANGAMALY P.O., ERNAKULAM DISTRICT.

5. THE KERALA NON GAZETTED OFFICERS ASSOCIATION STATE COMMITTEE, REPRESENTED BY ITS STATE VICE PRESIDENT, K.V.MURALEEDHARAN, AGED 48, S/O. U.VELAYUDHAN, 'SAFALYAM', NEAR RAILWAY STATION, FOOD CORPORATION OF INDIA ROAD, ANGAMALY P.O., ERNAKULAM DISTRICT.

BY GOVERNMENT PLEADER SRI. BEJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI

W.P.(C) No.34965/2007

Dated this the 29th day of November 2007

JUDGMENT

Petitioners are government servants and in that capacity, members of the Kerala NGO Association which is a service organization of non-gazetted officers of the government except those from the Department of Police, Jail, Excise and Forest. The second respondent Association is recognized in terms of Rule 78 of the Kerala Government Servants Conduct Rules 1960. Ext.P2 is the bye-laws of the Association, which was approved. Clause-8 of Ext.P2 is particularly highlighted by the learned counsel for the petitioners. Petitioners contend that in 1995, Ext.P2 bye-laws was substantially amended, and the amended bye-laws are Ext.P2(a). Reference is made to Rule 77 of the Conduct Rules which deals with the conditions for recognition of an Association. Rule 77(9) states that any amendment of a substantial character in the rules of the service association shall be made only with the previous approval of the government. Rule 77(9) states that government

shall withdraw the recognition granted to any association, if it violates any of the conditions contained in its recognition. According to the petitioner, the amendment which was affected to Ext.P2 bye-laws on 7.12.2005 resulting in Ext.P2(a), amounts to a contravention of Rule 77(9) in as much as the amendment that was brought about was of a substantial character. Therefore the amendment should have been preceded by an approval of the government in that regard. They contend that on the basis of the amended bye-laws elections are to be held in the second respondent association.

2. Petitioners have brought these facts to the notice of the first respondent by Ext.P6 representation produced along with I.A.15803/2007. I have gone through Ext.P6 as well. In as much as that a statutory infraction has been brought to the notice of the government, the government shall look into the same.

3. Learned counsel for the petitioners submits that elections are proposed to be held on the strength of the amended bye-laws and such elections would therefore be illegal. The conduct of elections is an internal matter of the association, and in my view, any grievance as regards the conduct of the elections may have

to be agitated before the civil court.

4. After having heard the learned government pleader also, the writ petition is disposed of directing the first respondent to look into Ext.P6, in the light of Rule 77 and 77(9) of the Conduct Rules, hear the petitioners as also the representatives of the second respondent association and any other interested person, and take a decision thereon, within a period of two months from the date of receipt of a copy of this judgment.

V.GIRI, JUDGE

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